

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 20349 PERMIT 13623 LICENSE 10838

**ORDER APPROVING CHANGE
IN SOURCES, POINTS OF DIVERSION, PLACE OF USE,
AND AMENDING THE LICENSE**

WHEREAS:

1. License 10838 was issued to Bruce F. Clark and Corrine J. Clark on August 22, 1978, pursuant to Application 20349.
2. License 10838 was filed with the County Recorder of Mono County on August 28, 1978 in Book 250, Page 303.
3. License 10838 was subsequently assigned to the June Lake Public Utility District (District).
4. A Petition for Change has been filed with the State Water Resources Control Board (SWRCB).
5. On December 22, 1995, the California Sportfishing Protection Alliance's protest was resolved based on a bypass condition for Fern Creek, which shall be included in this Order.
6. The petitioned changes would not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
7. The license condition regarding the SWRCB's continuing authority should be updated to conform to Title 23, CCR Section 780(a).

NOW, THEREFORE, IT IS ORDERED THAT:

1. The license condition regarding the source be amended to read:
 - 1) Unnamed Spring tributary to Reversed Creek; and 2) Fern Creek tributary to Reversed Creek thence Rush Creek thence Mono Lake in Mono County.

(0000001)

2. The license condition regarding the points of diversion be amended to read:

- A) South 3,500 feet and West 2,400 feet from NE corner of Section 21, T2S, R26E, MDB&M, being within the NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of said Section 21. Also described as California Coordinate System, Zone 3, North 460,800, East 2,402,300.
- B) South 2,500 feet and East 900 feet from NW corner of Section 22, T2S, R26E, MDB&M, being within the SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of said Section 22. Also described as California Coordinate System, Zone 3, North 461,800, East 2,405,600. (0000002)

3. The license condition regarding the place of use be amended to read:

The "Down-Canyon Water Service Area" is described as follows:

Within the SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 8, within the W $\frac{1}{2}$ Section 9, within the SW $\frac{1}{4}$ and the S $\frac{1}{2}$ of NW $\frac{1}{4}$ of Section 15, within the S $\frac{1}{2}$ and the NW $\frac{1}{4}$ of Section 16, within the E $\frac{1}{2}$ of Section 17, within the E $\frac{1}{2}$ of Section 20, within the N $\frac{1}{2}$ and the N $\frac{1}{2}$ of S $\frac{1}{2}$ of Section 21, within the N $\frac{1}{2}$ and the NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 22; all being within T2S, R26E, MDB&M, as shown on a map on file with the SWRCB. (0000004)

4. A new condition be added to the license to read as follows:

The District shall install and maintain a permanent piped bypass around the Fern Creek source sized such that a minimum of 200 gallons per minute will always flow by the diversion regardless of water use by the District, and configured such that it cannot be restricted or plugged. (0050400)
(0350400)

5. The SWRCB'S continuing authority condition be amended to read:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this license including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the SWRCB in accordance with the law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

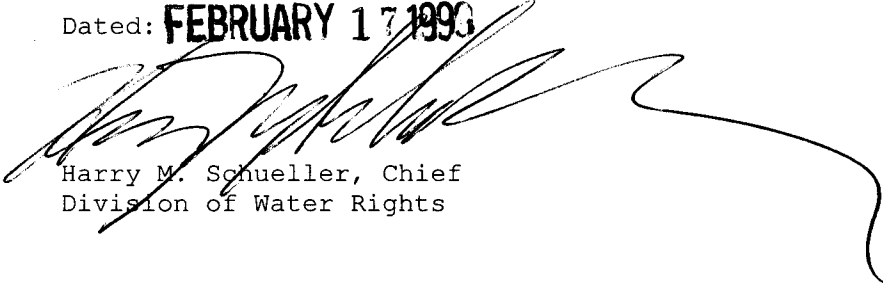
The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to:
(1) reusing or reclaiming the water allocated; (2) using water

reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce returnflow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

Dated: **FEBRUARY 17 1993**



Harry M. Schueller, Chief
Division of Water Rights



STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

License for Diversion and Use of Water

APPLICATION 20349

PERMIT 13623

LICENSE 10838

THIS IS TO CERTIFY, That

BRUCE F. CLARK AND CORRINE J. CLARK
BOX 171, JUNE LAKE, CALIFORNIA 93529

Over

HAVE *made proof as of* JULY 14, 1975 *(the date of inspection)*
to the satisfaction of the State Water Resources Control Board of a right to the use of the water of
FERN CREEK IN MONO COUNTY

tributary to REVERSED CREEK THENCE RUSH CREEK THENCE MONO LAKE

for the purpose of DOMESTIC USE

under Permit 13623 of the Board and that the right to the use of this water has been perfected
in accordance with the laws of California, the Regulations of the Board and the permit terms; that the
priority of this right dates from AUGUST 14, 1961 and that the amount of water to which
this right is entitled and hereby confirmed is limited to the amount actually beneficially used for the stated
purposes and shall not exceed FIFTEEN THOUSAND (15,000) GALLONS PER DAY, TO BE
DIVERTED FROM JANUARY 1 TO DECEMBER 31 OF EACH YEAR. THE MAXIMUM AMOUNT
DIVERTED UNDER THIS LICENSE SHALL NOT EXCEED 4.9 ACRE-FEET PER YEAR.

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

SOUTH 2,840 FEET AND EAST 3,160 FEET FROM NW CORNER OF SECTION 21, T2S, R26E,
MDB&M, BEING WITHIN NW1/4 OF SE1/4 OF SAID SECTION 21.

A DESCRIPTION OF LANDS OR THE PLACE WHERE
SUCH WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:

WITHIN N1/2 OF NW1/4 AND N1/2 OF NE1/4 OF SECTION 21, T2S, R26E, MDB&M, AND
E1/2 OF SE1/4 OF SECTION 17, T2S, R26E, MDB&M, LYING EAST OF RUSH CREEK

IN ACCORDANCE WITH THE REQUIREMENTS OF FISH AND GAME CODE SECTION 5946,
THIS LICENSE IS CONDITIONED UPON FULL COMPLIANCE WITH SECTION 5937 OF THE
FISH AND GAME CODE. (0150)

Licensee shall allow representatives of the Board and other parties, as may be authorized from time to time by the Board, reasonable access to project works to determine compliance with the terms of this license.

All rights and privileges under this license including method of diversion, method of use and quantity of water diverted are subject to the continuing authority of the Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the Board.

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.

This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the Board.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

Dated: AUGUST 22 1978

STATE WATER RESOURCES CONTROL BOARD

R. L. Brantley
Chief, Division of Water Rights